

1 On or about June 7, 2005, Respondent petitioned
2 for reinstatement of said real estate broker license and the
3 Attorney General of the State of California has been given
4 notice of the filing of said petition.
5

6 I have considered the petition of Respondent and
7 the evidence and arguments in support thereof including
8 Respondent's record as a restricted licensee. Respondent
9 has demonstrated to my satisfaction that Respondent meets the
10 requirements of law for the issuance to Respondent of an
11 unrestricted real estate broker license and that it would not
12 be against the public interest to issue said license to
13 Respondent.

14 NOW, THEREFORE, IT IS ORDERED that Respondent's
15 petition for reinstatement is granted and that a real estate
16 broker license be issued to Respondent if Respondent satisfies
17 the following conditions within nine (9) months from the date
18 of this Order:

19 1. Submittal of a completed application and payment
20 of the fee for a real estate broker license.

21 2. Submittal of evidence of having, since the most
22 recent issuance of an original or renewal real estate license,
23 taken and successfully completed the continuing education
24 requirements of Article 2.5 of Chapter 3 of the Real Estate
25 Law for renewal of a real estate license.

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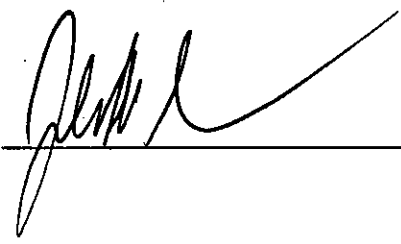
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3. Submittal of proof satisfactory to the
Commissioner of having taken and completed the trust fund
accounting and handling course specified in paragraph (3),
subdivision (a) of Section 10170.5 of the Business and
Professions Code.

This Order shall become effective immediately.

DATED: 4-24-57

JEFF DAVI
Real Estate Commissioner



cc: Lucile B. Hoyt
201 Ocean Ave., # 802B
Santa Monica, CA 90402

1 Among those terms, conditions and restrictions,
2 Respondent was required, within six (6) months of the effective
3 date of the restricted license, take and pass the Professional
4 Responsibility Examination administered by the Department
5 including the payment of the appropriate examination fee. The
6 Commissioner has determined that as of November 6, 2003,
7 Respondent has failed to satisfy this condition, and as such, is
8 in violation of Section 10177(k) of the Business and Professions
9 Code.

10 NOW, THEREFORE, IT IS ORDERED under authority of
11 Section 10156.7 of the Business and Professions Code of the State
12 of California that the restricted real estate broker license
13 heretofore issued to respondent and the exercise of any
14 privileges thereunder is hereby suspended until such time as
15 Respondent provides satisfactory proof to the Department of
16 compliance with the "condition(s)" referred to above, or pending
17 final determination made after hearing (see "Hearing Rights" set
18 forth below)

19 IT IS FURTHER ORDERED that all license certificates and
20 identification cards issued by Department which are in the
21 possession of respondent be immediately surrendered by personal
22 delivery or by mailing in the enclosed, self-addressed envelope
23 to:

24 Department of Real Estate
25 Attn: Flag Section
26 P. O. Box 187000
27 Sacramento, CA 95818-7000

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HEARING RIGHTS: Pursuant to the provisions of Section 10156.7 of the Business and Professions Code, you have the right to a hearing to contest the Commissioner's determination that you are in violation of Section 10177(k). If you desire a hearing, you must submit a written request. The request may be in any form, as long as it is in writing and indicates that you want a hearing. Unless a written request for a hearing, signed by or on behalf of you, is delivered or mailed to the Department at 320 West 4th Street, Suite 350, Los Angeles, California, 90013-1105 within 20 days after the date that this Order was mailed to or served on you, the Department will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: December 8, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

John R. Liberator

BY: John R. Liberator
Chief Deputy Commissioner

cc: Lucille Bohannon Hoyt
6273 Bristol Pkwy
Culver City, CA 90230

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
3 320 W. 4TH Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982 (Office)
6 -or- (213) 576-6911 (Direct)

FILED
MAR -7 2003
DEPARTMENT OF REAL ESTATE

By K. Wiederholt

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

DRE No. H-29296 LA

12 DESERT CONDO RENTALS, INC.,)
13 and LUCILLE BOHANNON HOYT,)
14 individually and as designated)
15 officer of Desert Condo Rentals,)
16 Inc.,)

OAH NO. L-2002010443

STIPULATION
AND
AGREEMENT

17 Respondents.)
18)
19)
20)

21 It is hereby stipulated by and between Respondent
22 LUCILLE BOHANNON HOYT (sometimes referred to herein as
23 "Respondent") acting by and through her counsel, Eugene C. Gratz,
24 Esq., and the Complainant, acting by and through Elliott Mac
25 Lennan, Counsel for the Department of Real Estate, as follows for
26 the purpose of settling and disposing of the Accusation filed on
27 November 27, 2001, in this matter.

1. All issues which were to be contested and all
evidence which was to be presented by Complainant and Respondent

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

6 2. Respondent has received, read and understands
7 the Statement to Respondent, the Discovery Provisions of the
8 APA and the Accusation, filed by the Department of Real Estate
9 ("Department") in this proceeding.

10 3. Respondent filed a Notice of Defense pursuant to
11 Section 11506 of the Government Code for the purpose of
12 requesting a hearing on the allegations in the Accusation.
13 Respondent hereby freely and voluntarily withdraws said Notice of
14 Defense. Respondent acknowledges that she understands that by
15 withdrawing said Notice of Defense, she will thereby waive her
16 right to require the Commissioner to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that she will waive other rights
19 afforded to her in connection with the hearing, such as the right
20 to present evidence in defense of the allegations in the
21 Accusation and the right to cross-examine witnesses.

22 4. This Stipulation and Agreement is based on the
23 factual allegations contained in the Accusation filed in this
24 proceeding. In the interest of expedience and economy,
25 Respondent chooses not to contest these factual allegations, but
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1 to remain silent and understands that, as a result thereof, these
2 factual statements, without being admitted or denied, will serve
3 as a prima facie basis for the disciplinary action stipulated to
4 herein. This Stipulation and Respondent's decision not to
5 contest the Accusation are hereby expressly limited to this
6 proceeding and made for the sole purpose of reaching an agreed
7 disposition of this proceeding. Respondent's decision not to
8 contest the factual allegations is made solely for the purpose of
9 effectuating this Stipulation and is intended by Respondent to be
10 non-binding upon Respondent in any actions against Respondent by
11 third parties. The Real Estate Commissioner shall not be
12 required to provide further evidence to prove such allegations.

13 5. This Stipulation and any Order made pursuant to
14 this Stipulation shall have no collateral estoppel or res
15 judicata effect in any proceedings in which the Respondent and
16 the Department (or the Department's representative) are not
17 parties. This Stipulation is made by Respondent and received
18 by the Commissioner and the Department, with the express
19 understanding and agreement that it is for the purpose of
20 settling these proceedings only, and that this Stipulation is
21 not intended as, and shall not be deemed, used, or accepted as
22 an acknowledgment or admission of fact in any other judicial,
23 administrative, or other proceeding to which the Department is
24 not a party.

25
26 6. It is understood by the parties that the Real
27

1 Estate Commissioner may adopt the Stipulation as her decision
2 in this matter, thereby imposing the penalty and sanctions on
3 Respondent's real estate license and license rights as set forth
4 in the below "Order." In the event that the Commissioner in her
5 discretion does not adopt the Stipulation, the Stipulation shall
6 be void and of no effect, and Respondent shall retain the right
7 to a hearing on the Accusation under all the provisions of the
8 APA and shall not be bound by any stipulation or waiver made
9 herein.

10 7. The Order or any subsequent Order of the Real
11 Estate Commissioner made pursuant to this Stipulation shall
12 not constitute an estoppel, merger or bar to any further
13 administrative or civil proceedings by the Department of Real
14 Estate with respect to any matters which were not specifically
15 alleged to be causes for accusation in this proceeding.

16 8. This stipulation and the order made pursuant to
17 this stipulation shall have no collateral estoppel or res
18 judicata effect in any proceeding(s) in which LUCILLE BOHANNON
19 HOTY the Department are not parties. This stipulation is made
20 and accepted with the express understanding and agreement that it
21 is for the purpose of settling these proceedings only, and is not
22 intended as, nor shall be it be deemed, used, argued, or accepted
23 as an acknowledgement or admission of fact in any other judicial,
24 administrative, or other proceeding in which the Department is
25 not a party.
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1 9. Respondent understands that by agreeing to this
2 Stipulation, Respondent agrees to pay, pursuant to Business and
3 Professions Code Section 10148, the cost of the audit of Desert
4 Condo Rentals, Inc., which led to this disciplinary action. The
5 amount of said cost is \$6,382.49.

6 10. Respondent has received, read, and understands the
7 "Notice Concerning Costs of Subsequent Audit". Respondent
8 further understands that by agreeing to this Stipulation, the
9 findings set forth below in the Determination of Issues become
10 final, and the Commissioner may charge Respondent for the cost of
11 any subsequent audit conducted pursuant to Business and
12 Professions Code Section 10148 to determine if the violations
13 have been corrected. The maximum cost of the subsequent audit
14 will not exceed \$6,382.49.

15 DETERMINATION OF ISSUES

16
17 By reason of the foregoing stipulations and waivers and
18 solely for the purpose of settlement of the pending Accusation
19 without a hearing, it is stipulated and agreed that the following
20 determination of issues shall be made:

21 I

22 The conduct, acts and/or omissions of LUCILLE BOHANNON
23 HOYT as described in Paragraph 4, herein, is in violation of
24 Sections 10145 of the Business and Professions Code ("Code") and
25 Sections 2752, 2831, 2831.1, 2831.2 and 2832.1 of Title 10,
26 Chapter 6, of the California Code of Regulations and is a basis
27

1 for the suspension or revocation of Respondent's license and
2 license rights as a violation of the Real Estate Law pursuant to
3 Code Sections 10177(d) and 10177(g).

4 II

5 The conduct, acts and/or omissions of LUCILLE BOHANNON
6 HOYT, as described in Paragraph 4, herein, constitutes a failure
7 to ensure that Desert Condo Rentals, Inc., was in compliance with
8 the Real Estate Law during the time that she was the officer
9 designated by a corporate broker licensee in violation of Code
10 Section 10159.2. This conduct is a basis for the suspension or
11 revocation of Respondent's license pursuant to Business and
12 Professions Code Section 10177(d).

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I.

16
17 The real estate broker license and licensing rights of
18 Respondent LUCILLE BOHANNON HOYT, under the Real Estate Law are
19 revoked; provided, however, a restricted real estate broker
20 license shall be issued to Respondent LUCILLE BOHANNON HOYT,
21 pursuant to Section 10156.5 of the Business and Professions Code,
22 if Respondent:

23 (A) makes application thereof and pays to the
24 Department of Real Estate the appropriate fee for the restricted
25 license within ninety (90) days from the effective date of this
26 Decision.
27

1 (B) Respondent shall, prior to and as a condition of
2 the issuance of said restricted license, submit proof
3 satisfactory to the Commissioner of having taken and completed at
4 an accredited institution the continuing education course on
5 trust fund accounting and handling specified on paragraph (3) of
6 subdivision (a) of Section 10170.5 of the Business and
7 Professions Code.

8 1. The restricted license issued to Respondent may be
9 suspended prior to hearing by Order of the Real Estate
10 Commissioner in the event of Respondent's conviction or plea of
11 nolo contendere to a crime which is substantially related to
12 Respondent's fitness or capacity as a real estate licensee.

13 2. The restricted license issued to Respondent may
14 be suspended prior to hearing by Order of the Real Estate
15 Commissioner on evidence satisfactory to the Commissioner that
16 Respondent has violated provisions of the California Real Estate
17 Law, the Subdivided Lands Law, Regulations of the Real Estate
18 Commissioner or conditions attaching to the restricted license.

19 3. Respondent shall not be eligible to apply for the
20 issuance of an unrestricted real estate license nor for the
21 removal of any of the conditions, limitations or restrictions of
22 a restricted license until two (2) years have elapsed from the
23 effective date of this Decision.

24 4. Respondent shall, within nine (9) months from the
25 effective date of this Decision, present evidence satisfactory to
26 the Commissioner of the Real Estate Board that Respondent is
27 qualified to receive an unrestricted real estate license.

1 the Real Estate Commissioner that Respondent has, since the most
2 recent issuance of an original or renewal real estate license,
3 taken and successfully completed the continuing education
4 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
5 for renewal of a real estate license. If Respondent fails to
6 satisfy this condition, the Commissioner may order the suspension
7 of the restricted license until the Respondent presents such
8 evidence. The Commissioner shall afford Respondent the
9 opportunity for a hearing pursuant to the Administrative
10 Procedure Act to present such evidence.

11 5. Respondent shall within six (6) months from the
12 effective date of the restricted license, take and pass the
13 Professional Responsibility Examination administered by the
14 Department including the payment of the appropriate examination
15 fee. If respondent fails to satisfy this condition, the
16 Commissioner may order suspension of the restricted license
17 until respondent passes the examination.

18 6. Pursuant to Section 10148 of the Business and
19 Professions Code, Respondent shall pay the Commissioner's
20 reasonable cost for: (a) the audit of Desert Condo Rentals,
21 Inc., which led to this disciplinary action and (b) a subsequent
22 audit to determine if Respondent is now in compliance with the
23 Real Estate Law. The cost of the audit which led to this
24 disciplinary action is \$6,382.49. In calculating the amount of
25 the Commissioner's reasonable cost, the Commissioner may use the
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1 estimated average hourly salary for all persons performing audits
2 of real estate brokers, and shall include an allocation for
3 travel time to and from the auditor's place of work. Said amount
4 for the prior and subsequent audits shall not exceed \$12,764.98.

5 Respondent shall pay such cost within 60 days of
6 receiving an invoice from the Commissioner detailing the
7 activities performed during the audit and the amount of time
8 spent performing those activities.

9 The Commissioner may suspend the license of Respondent
10 pending a hearing held in accordance with Section 11500, et seq.,
11 of the Government Code, if payment is not timely made as provided
12 for herein, or as provided for in a subsequent agreement between
13 the Respondent and the Commissioner. The suspension shall remain
14 in effect until payment is made in full or until Respondent
15 enters into an agreement satisfactory to the Commissioner to
16 provide for payment, or until a decision providing otherwise is
17 adopted following a hearing held pursuant to this condition.
18

19
20 DATED: 2-4-03

E. J. W.
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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EXECUTION OF THE STIPULATION

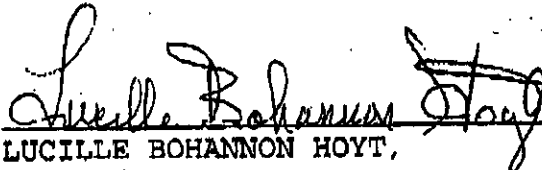
I have read the Stipulation and Agreement have discussed it with my counsel. Its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

FACSIMILE TRANSMISSION

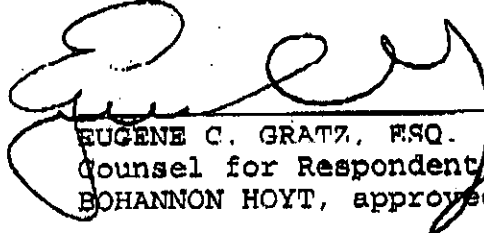
Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

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DATED: 2/14/03


LUCILLE BOHANNON HOYT,
Respondent

DATED: 2/14/03


EUGENE C. GRATZ, ESQ.
Counsel for Respondent LUCILLE
BOHANNON HOYT, approved as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent LUCILLE BOHANNON HOYT,
and shall become effective at 12 o'clock noon
on _____, 2003.

IT IS SO ORDERED _____.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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DATED: _____

LUCILLE BOHANNON HOYT,
Respondent

DATED: _____

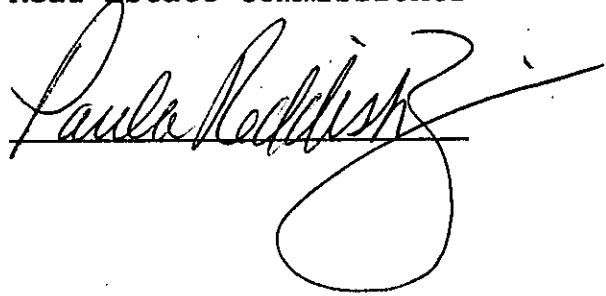
EUGENE C. GRATZ, ESQ.
Counsel for Respondent LUCILLE
BOHANNON HOYT, approved as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent LUCILLE BOHANNON HOYT,
and shall become effective at 12 o'clock noon
on April 7, 2003.

IT IS SO ORDERED March 4, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



*Jack
glo*

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
4 320 West Fourth Street, Suite 350
5 Los Angeles, California 90013-1105
6
7
8 (213) 576-6911
9

FILED
MAR -7 2003
DEPARTMENT OF REAL ESTATE

By *R. Medeiros*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)	DRE NO. H-29296 LA
12)	
13 DESERT CONDO RENTALS, INC.,)	OAH NO. L-2002010443
14)	
15 Respondent.)	
)	

16 ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

17 On November 27, 2001, an Accusation was filed in this
18 matter against Respondent DESERT CONDO RENTALS, INC.
19

20 On February 14, 2003, Respondent petitioned the
21 Commissioner to voluntarily surrender her real estate
22 salesperson license pursuant to Section 10100.2 of the Business
23 and Professions Code.

24 IT IS HEREBY ORDERED that Respondent DESERT CONDO
25 RENTALS, INC. petition for voluntary surrender of its real estate
26 broker license is accepted as of the effective date of this Order
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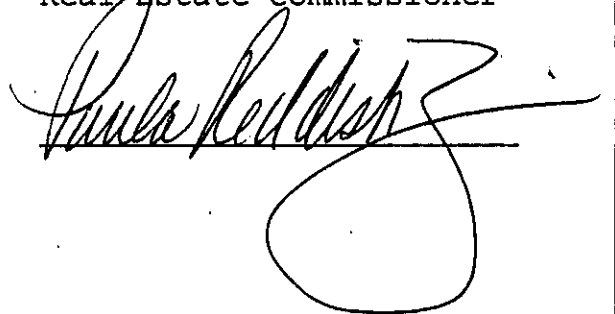
1 as set forth below, based upon the understanding and agreement
2 expressed in Respondent's Declaration dated February 14, 2003,
3 (attached as Exhibit "A" hereto). Respondent's license
4 certificate and pocket card shall be sent to the below listed
5 address so that they reach the Department on or before the
6 effective date of this Order:

7
8 Department of Real Estate
9 Atten: Licensing Flag Section
10 P.O. BOX 18700
11 Sacramento, CA 95818-7000

12 This Order shall become effective at 12 o'clock noon
13 on March 27 2003.

14 DATED: March 4, 2003

15 PAULA REDDISH ZINNEMANN.
16 Real Estate Commissioner

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1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
4 320 West Fourth Street, Suite 350
5 Los Angeles, California 90013-1105
6
7
8 (213) 576-6911
9

10 DEPARTMENT OF REAL ESTATE

11 STATE OF CALIFORNIA

12 * * * *

13 In the Matter of the Accusation of) DRE NO. H-29296 LA
14 DESERT CONDO RENTALS, INC.,) OAH NO. L-2002010443
15 Respondent.)
16)

17 DECLARATION

18 My name is Lucille Bohannon Hoyt and I am currently
19 the designated officer of DESERT CONDO RENTALS, INC. which is
20 licensed as a real estate broker and/or has license rights with
21 respect to said license. I am authorized and empowered to sign
22 this declaration on behalf of DESERT CONDO RENTALS, INC.

23 In lieu of proceeding in this matter in accordance
24 with the provisions of the Administrative Procedures Act
25 (Sections 11400 et seq., of the Government Code) DESERT CONDO
26 RENTALS, INC. wishes to voluntarily surrender its real estate
27

1 license issued by the Department of Real Estate ("Department"),
2 pursuant to Business and Professions Code Section 10100.2.

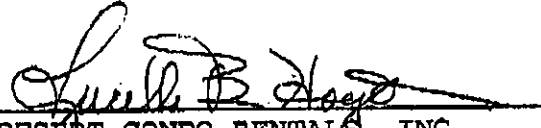
3 I understand that DESERT CONDO RENTALS, INC. by so
4 voluntarily surrendering its license, can only have it
5 reinstated in accordance with the provisions of Section 11522 of
6 the Government Code. I also understand that by so voluntarily
7 surrendering its license, DESERT CONDO RENTALS, INC. agrees to
8 the following:

9 The filing of this Declaration shall be deemed as its
10 petition for voluntary surrender. It shall also be deemed to be
11 an understanding and agreement by DESERT CONDO RENTALS, INC.
12 that, it will waive all rights it has to require the
13 Commissioner to prove the allegations contained in the
14 Accusation filed in this matter at a hearing held in accordance
15 with the provisions of the Administrative Procedures Act
16 (Government Code Sections 11400 et seq.), and that it will also
17 waive other rights afforded to it in connection with the hearing
18 such as the right to discovery, the right to present evidence in
19 defense of the allegations in the Accusation and the right to
20 cross examine witnesses. I further agree on behalf of DESERT
21 CONDO RENTALS, INC. that upon acceptance by the Commissioner, as
22 evidenced by an appropriate order, all affidavits and all
23 relevant evidence obtained by the Department in this matter
24 prior to the Commissioner's acceptance, and all allegations
25 contained in the Accusation filed in the Department Case
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1 No. H-29296, may be considered by the Department to be true and
2 correct for the purpose of deciding whether or not to grant
3 reinstatement of my license pursuant to Government Code Section
4 11522.

5 I declare under penalty of perjury under the laws of
6 the State of California that the above is true and correct and
7 that I am acting freely and voluntarily on behalf of DESERT
8 CONDO RENTALS, INC. to surrender its license and all license
9 rights attached thereto.

10
11 DATED: 2/14/03 at Laguna Beach, 2003

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14 
15 DESERT CONDO RENTALS, INC.
16 BY: LUCILLE BOHANNON HOYT, D.O
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1 No. H-29296, may be considered by the Department to be true and
2 correct for the purpose of deciding whether or not to grant
3 reinstatement of my license pursuant to Government Code Section
4 11522.

5 I declare under penalty of perjury under the laws of
6 the State of California that the above is true and correct and
7 that I am acting freely and voluntarily on behalf of DESERT
8 CONDO RENTALS, INC. to surrender its license and all license
9 rights attached thereto.

10
11 DATED: _____ at _____, 2003
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15 _____
16 DESERT CONDO RENTALS, INC.
17 BY: LUCILLE BOHANNON HOYT, D.O
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Sacto

FILED
JUL 19 2002
DEPARTMENT OF REAL ESTATE

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of

By *R. M. ...*

DESERT CONDO RENTAL INC., et al.

}
}

Case No. H-29296 LA

OAH No. L-2002010443

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, Ste. 630, Los Angeles, CA on February 24, 25, & 26, 2003, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: July 19, 2002

By *E. M. Lennan*
ELLIOTT MAC LENNAN, Counsel

cc: Deserto Condo Rentals Inc./Lucille B. Hoyt
Eugene C. Gratz, Esq./Sacto/OAH/JN

SACTO.
Play

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
APR - 5 2002
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
DESERT CONDO RENTALS, INC., et al.,)
)
Respondents.)

Case No. H-29296 LA
OAH No. L-2002010443

By 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on April 26, 2002, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: April 5, 2002.

cc: Desert Condo Rentals Inc.
Lucille Bohannon Hoyt
Eugene C. Gratz, Esq.
Danio Fajardo
Ron Revilla
Sacto./OAH

DEPARTMENT OF REAL ESTATE

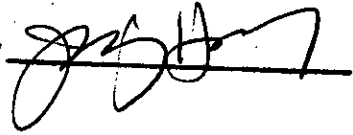
By: 
SEAN CRAHAN, Counsel

SACTO

1 SEAN CRAHAN, SBN 49351
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

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FILED
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DEPARTMENT OF REAL ESTATE

By 

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-29296 LA
12	DESERT CONDO RENTALS, INC., a)	<u>ACCUSATION</u>
13	California corporate broker; and)	
14	LUCILLE BOHANNON HOYT,)	
15	individually, and as designated)	
16	officer of Desert Condo Rentals,)	
17	Inc., Lucille B. Hoyt and)	
18	Associates and doing business as)	
19	United Pacific Home Loan,)	
20)	
21	Respondents.)	

22 The Complainant, Maria Suarez, a Deputy Real Estate
23 Commissioner of the State of California, acting in her official
24 capacity, for cause of accusation against DESERT CONDO RENTALS,
25 INC., a California corporate broker; LUCILLE BOHANNON HOYT,
26 individually, as designated officer of Desert Condo Rentals,
27 Inc., Lucille B. Hoyt and Associates, California corporate
brokers, and doing business as United Pacific Home Loan, is
informed and alleges as follows:

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1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

DESERT CONDO RENTALS, INC. sometimes referred to as Respondent DCR, is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code). At all times mentioned, Respondent DCR was licensed by the Department of Real Estate (Department) as a corporate real estate broker.

3.

(a) LUCILLE BOHANNON HOYT sometimes referred to as Respondent HOYT, is presently licensed and/or has license rights under the Real Estate Law. At all times mentioned, Respondent HOYT was licensed by the Department as a real estate broker, individually, as designated officer of Desert Condo Rentals, Inc., Lucille B. Hoyt and Associates, California corporate brokers, and doing business as United Pacific Home Loan.

(b) Pursuant to Code Section 10159.2, Respondent HOYT was responsible for the supervision of the officers, agents and employees of Respondent DCR in the performance of activities for which a real estate license was required.

4.

At all times mentioned herein, as the agent of others, Respondent DCR engaged in the business of, acted in the capacity

1 of, advertised or assumed to act as a real estate broker in the
2 State of California, within the meaning of Section 10131(b) of
3 the Code, wherein DCR, for or in expectation of compensation, on
4 behalf of owners, leased or rented or offered to lease or rent or
5 collected rents from real property, or improvements thereon.

6 5.

7 On November 6, 2000, Department personnel completed an
8 audit, Number LA 000102, of Respondent DCR's books and records
9 pertaining to its activities as brokers requiring a real estate
10 broker license, for a period commencing on April 1, 1999, and
11 terminating on September 29, 2000, which revealed violations of
12 the Real Estate Law by Respondents DCR and HOYT, described below
13 and more particularly described in audit report, Number LA
14 000102, attached hereto and incorporated herein.

15 6.

16 In connection with the aforesaid broker activities, DCR
17 accepted or received funds in trust ("trust funds") in the form
18 of rents from various lessees and thereafter made disbursements
19 of such funds. DCR deposited these funds into one bank account,
20 known as the "Desert Condo Rentals, Inc. Client Trust Account"
21 (hereafter TA) at Union Bank in Rancho Mirage, California.

22 7.

23 With respect to the trust funds referred to in
24 Paragraph 6, Respondents DCR and HOYT:

25 (a) Caused or permitted the disbursement of trust
26 funds from the trust account without the prior written consent of
27

1 every principal who was an owner of the funds in the above trust
2 account when said disbursements reduced the balance of funds in
3 this account to an amount which was, on September 29, 2000,
4 \$15,450.76 less than DCR's existing aggregate trust fund
5 liability to all owners of funds in the accounts in violation of
6 Section 10145 of the Code and Section 2832.1 of the Regulations.
7 The shortage was mainly caused by DCR's disbursing funds of
8 various owners whose properties had income in excess of
9 disbursements for owners whose properties had disbursements in
10 excess of income.

11 (b) Transferred from the trust account to the general
12 account approximately \$9,000, thereby commingling trust funds
13 with the funds of DCR.

14 (c) Failed to maintain a record in columnar form, in
15 chronological sequence, showing all trust funds received, date of
16 receipt and disbursed along with a daily balance, in violation of
17 Section 2831 of the Regulations. Respondent DCR maintained a
18 manual listing of all checks disbursed in chronological order but
19 this record did not include any deposit information or any
20 account balances.

21 (d) Failed to maintain separate records showing dates
22 funds were received and deposited, dates and check numbers of
23 disbursements and account balances after each transaction. The
24 records maintained by DCR were inaccurate in that they reflected
25 expenses that had not yet been disbursed. All herein were in
26 violation of Regulation 2831.1.
27

1 (e) Failed to perform a monthly reconciliation of the
2 balance of all separate beneficiary or transaction records with
3 the record of all trust funds received and disbursed out of your
4 trust account, as required by Section 2831.2 of the Regulations.

5 (f) Failed to notify the Department of the employment
6 on or about October 25, 1999, of Kathryn Bastanchury, a licensed
7 salesperson, in violation of Regulation 2752.

8 8.

9 Respondent's conduct set forth above constitutes
10 negligence in transactions requiring a real estate license.

11 9.

12 By reason of the findings set forth, above, in
13 Paragraph 7, Respondent HOYT failed to supervise the activities
14 conducted on behalf of DCR by its officers and employees as
15 necessary to secure full compliance with Real Estate Law in
16 violation of Section 10159.2 of the Code.

17 10.

18 The conduct or omissions of Respondent DCR as set forth
19 above subject DCR's real estate licenses and license rights to
20 suspension or revocation under the following Code Sections:

21 (a) Section 10176(e) for commingling, as set forth in
22 Paragraph 7(b), above.

23 (b) Section 10177(d) for willful violations of Code
24 Section 10145 and Regulations 2752, 2831, 2831.1, 2831.2, 2832.1
25 and 2834 from Title 10, Chapter 6 of the California Code of
26 Regulations, as set forth in Paragraph 7, above.

27

1 (c) Section 10177(d) for violation of Code Section
2 10159.2 for failure to exercise reasonable supervision, as set
3 forth in Paragraph 9, above.

4 (d) Section 10177(g) for negligence in transactions
5 requiring a real estate license, as set forth in Paragraph 8,
6 above.

7 11.

8 The conduct or omissions of Respondent HOYT as set
9 forth above subject her real estate licenses and license rights
10 to suspension or revocation under the following Code Sections:

11 (a) Section 10176(e) for commingling, as set forth in
12 Paragraph 7(b), above.

13 (b) Section 10177(d) for willful violations of Code
14 Section 10145 and Regulations 2831, 2831.1, 2831.2, 2832.1 and
15 2834 from Title 10, Chapter 6 of the California Code of
16 Regulations, as set forth in Paragraph 7, above.

17 (c) Section 10177(d) for violation of Code Section
18 10159.2 for failure to exercise reasonable supervision, as set
19 forth in Paragraph 9, above.

20 (d) Section 10177(g) for negligence in transactions
21 requiring a real estate license, as set forth in Paragraph 8,
22 above.

23 PRIOR ADMINISTRATIVE ACTION

24 1. On or about April 22, 1987, in case number H-22856
25 LA an Order to Desist and Refrain was served on Respondent HOYT,
26 in case number H-22856 LA, ordering her to desist and refrain
27 from violating Regulations 2715 (addresses), 2725 (initialing and

1 dating documents), 2831 (columnar records), 2831.1 (separate
2 records), 2832.1 (shortage).

3 2. On or about July 29, 1991, in case number H-1203
4 SA, an Order to Desist and Refrain was served on Respondent DCR,
5 ordering it to desist and refrain from violating Code Sections
6 10130 and 10137 in the employment of unlicensed persons.

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondents
11 DESERT CONDO RENTALS, INC., a California corporate broker;
12 LUCILLE BOHANNON HOYT, individually, as designated officer of
13 Desert Condo Rentals, Inc., Lucille B. Hoyt and Associates, and
14 doing business as United Pacific Home Loan, under the Real Estate
15 Law (Part 1 of Division 4 of the Business and Professions Code),
16 and for such other and further relief as may be proper under
17 other applicable provisions of law.

18 Dated at Los Angeles, California
19 this 27th day of November, 2001.

20 
21 _____
22 Maria Suarez
23 Deputy Real Estate Commissioner

24 cc: Desert Condo Rentals Inc,
25 Lucille Bohannon Hoyt
26 Maria Suarez
27 L.A. Audit Section
Ron Revilla
Sacto.
JN

Attachment: Audit LA 000102